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**Introduced by Senator Brulte**

February 19, 2003

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An act to amend Section 296 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 284, as introduced, Brulte. DNA and forensic identification: felons.

Existing law requires a person convicted of specified felonies to provide 2 specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand for law enforcement identification analysis, and makes it a misdemeanor to fail or refuse to do so.

This bill would instead require a person convicted of any felony to provide the specimens, samples, and imprints specified above. By expanding the scope of application of an existing crime, this bill would impose a state-mandated local program upon local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 296 of the Penal Code is amended to  
2 read:

1 296. (a) ~~(1)~~ Any person who is convicted of any ~~of the~~  
2 ~~following crimes~~ *felony offense*, or is found not guilty by reason  
3 of insanity of any ~~of the following crimes~~ *felony offense*, shall,  
4 regardless of sentence imposed or disposition rendered, be  
5 required to provide two specimens of blood, a saliva sample, right  
6 thumbprints, and a full palm print impression of each hand for law  
7 enforcement identification analysis:

8 ~~(A) Any offense or attempt to commit any felony offense~~  
9 ~~described in Section 290, or any felony offense that imposes upon~~  
10 ~~a person the duty to register in California as a sex offender under~~  
11 ~~Section 290.~~

12 ~~(B) Murder in violation of Section 187, 190, 190.05, or any~~  
13 ~~degree of murder as set forth in Chapter 1 (commencing with~~  
14 ~~Section 187) of Title 8 of Part 1 of the Penal Code, or any attempt~~  
15 ~~to commit murder.~~

16 ~~(C) Voluntary manslaughter in violation of Section 192 or an~~  
17 ~~attempt to commit voluntary manslaughter.~~

18 ~~(D) Felony spousal abuse in violation of Section 273.5.~~

19 ~~(E) Aggravated sexual assault of a child in violation of Section~~  
20 ~~269.~~

21 ~~(F) A felony offense of assault or battery in violation of Section~~  
22 ~~217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245,~~  
23 ~~245.2, 245.3, or 245.5.~~

24 ~~(G) Kidnapping in violation of subdivisions (a) to (e),~~  
25 ~~inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an~~  
26 ~~attempt to commit any of these offenses.~~

27 ~~(H) Mayhem in violation of Section 203 or aggravated~~  
28 ~~mayhem in violation of Section 205, or an attempt to commit either~~  
29 ~~of these offenses.~~

30 ~~(I) Torture in violation of Section 206 or an attempt to commit~~  
31 ~~torture.~~

32 ~~(J) Burglary as defined in subdivision (a) of Section 460 or an~~  
33 ~~attempt to commit this offense.~~

34 ~~(K) Robbery as defined in subdivision (a) or (b) of Section~~  
35 ~~212.5 or an attempt to commit either of these offenses.~~

36 ~~(L) Arson in violation of subdivision (a) or (b) of Section 451~~  
37 ~~or an attempt to commit either of these offenses.~~

38 ~~(M) Carjacking in violation of Section 215 or an attempt to~~  
39 ~~commit this offense.~~

~~(N) Terrorist activity in violation of Section 11418 or 11419, or a felony violation of Section 11418.5, or an attempt to commit any of these offenses.~~

~~(2).~~

(b) Any person who is required to register under Section 290 because of the commission of, or the attempt to commit, a felony offense specified in Section 290, and who is committed to any institution under the jurisdiction of the Department of the Youth Authority where he or she was confined, or is granted probation, or is or was committed to a state hospital as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall be required to provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand to that institution or, in the case of a person granted probation, to a person and at a location within the county designated for testing.

~~(b)~~

(c) The provisions of this chapter and its requirements for submission to testing as soon as administratively practicable to provide specimens, samples, and print impressions as described in ~~subdivision (a)~~ subdivisions (a) and (b) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:

(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

~~(e)~~

(d) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the databank and database specimens, samples, and print impressions as a condition of probation, parole,

1 or any plea of guilty, no contest, or not guilty by reason of insanity,  
2 to any of the offenses described in ~~subdivision (a)~~ *subdivisions (a)*  
3 *and (b)*.

4 ~~(d)~~

5 (e) At sentencing or disposition, the prosecuting attorney shall  
6 verify in writing that the requisite samples are required by law, and  
7 that they have been taken, or are scheduled to be taken before the  
8 offender is released on probation, or other scheduled release.  
9 However, a failure by the prosecuting attorney or any other law  
10 enforcement agency to verify sample requirement or collection  
11 shall not relieve a person of the requirement to provide samples.

12 ~~(e)~~

13 (f) The abstract of judgment issued by the court shall indicate  
14 that the court has ordered the person to comply with the  
15 requirements of this chapter and that the person shall be included  
16 in the state's DNA and Forensic Identification Data Base and Data  
17 Bank program and be subject to this chapter. However, failure by  
18 the court to enter these facts in the abstract of judgment shall not  
19 invalidate a plea, conviction, or disposition, or otherwise relieve  
20 a person from the requirements of this chapter.

21 SEC. 2. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.